

A  
DECLARATION  
OF THE  
Lords and Commons  
IN  
PARLIAMENT,

Concerning  
His Majesties Proclamation,  
given at His Court at York, the  
27. of May. 1642.

With the Statute of the 7. *Edw.* 1.

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*Die Luna, Junii. 6. 1642.*

Ordered by the Lords and Commons in Parliament,  
That this Declaration be forthwith Printed and  
Published.


*Ioh. Brown, Cleric. Parliament.*

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LONDON,  
Printed for *Joseph Hunsfcott.* 1642.

  
*Die Sabbati, 4, Junii, 1642.*

*Sir Walter Erle, Sir Peter Wentworth,  
Sir Samuel Rolle, Mr Arthur Goodwyn,  
Mr. Pury, Mr. Noble.*

 *His Committee, or any three of them,  
are appointed to consider of the best  
way of putting the publike Orders  
and Votes of the House in execution,  
And of divulging, dispersing, and publishing the  
said Orders and Votes, and also the Declara-  
tions of the House, through the Kingdom, and  
of the well and true Printing of them: And  
have power to imploy Messengers, as they shall  
see occasion, and to make them allowances, and  
to sit, when, and where they please.*


*Hen. Elsing, Cler. Parl. D. Com.*





Die Luna, 6. Junii. 1642.

Resolved upon the Question.

1.  To provide for every County such a Competent number of the publike Orders and Declarations of this House well Printed, with a fair Letter, and good Paper, as that every Constable, Headborough, or Tythingman, may have one of each sort.

2. To seal up in one Bundle, so many of each sort, as there be Constables, Headboroughs, or Tythingmen in every hundred, and that a proportionable number of them for every County shall be delivered unto the Sheriff, or under-Sheriff of that County, or to their Deputy, who is to give a receipt under his hand of so many Bundles of each sort, as shall be delivered unto him, who is thereupon forthwith to send one of the said Bundles of each sort, unto every high Constable in his County, who is to give the like receipt for such Bundle so received by him.

3. That all the said severall receipts so subscribed by the said Sheriffs, Under-Sheriffs, Deputies, and high Constables respectively, shall be sent up with all convenient speed, and delivered unto the Committee appointed for this businesse, who are to receive them, and to send for all such Persons as shall be negligent in this service.

4. That every high Constable upon receipt of every of the said Bundles shall with all convenient speed send unto every petty Constable, Headborough, or Tythingman, in his devision one of each sort of the said Orders, and Declarations, who is required within seven dayes next after the receipt thereof, to cause the same to be publikely read in the presence of the rest of the Inhabitants of that Town or Parish, wherein he dwelleth.

5. That if the Sheriff, Under-Sheriff, or Deputy-Sheriff of any County be in or about London, Then all the severall Bundles to be delivered to him by the Sargeants man; if not, Then the Knights, Citizens, and Burgeses, that serve for every County, are to send them down to the Sheriffs, Under-Sheriffs, or high Constables to be disposed of as aforesaid.



# A Declaration of the Lords and Commons in Parliament, concerning His Majesties .

Proclamation the 27. of May.

1642.



He Lords and Commons having perused His Majesties Proclamation, forbidding all His Majesties Subjects, belonging to the Trained-Bands or *Militia* of this Kingdom, to raise, March, Muster, or exercise by vertue of any Order or Ordinance of one, or both Houses of Parliament, without consent or Warrant from His Majestie, upon pain of punishment, according to the Laws.

Do thereupon declare, That neither the Statute of the seventh of *Edward* the first, therein vouched, nor any other Law of this Kingdom doth restrain, or make void the Ordinance agreed upon by both Houses of Parliament, for the ordering and disposing the *Militia* of the Kingdom in this time of extrem and imminent danger, nor expose His Majesties Subjects to any punishment, for obeying the same; Notwithstanding, That His Majesty hath refused to give His Consent to that Ordinance, but ought to be obeyed by the Fundamentall Laws of this Kingdom.





The Declaration of 7. Ed. the 1. Quoted in His  
Majesties Proclamation, runneth thus.



*He King, to the Iustices of His Bench, sendeth greeting,  
Whereas of late before certain Persons deputed to treat  
upon sundry debates, had between Vs, and certain great  
Men of Our Realm, Amongst other things it was accor-  
ded, That in Our next Parliament after, Provision shall  
be made by Vs, and the common Assent of the Prelates,  
Earls, and Barons, That in all Parliaments, Treaties, and other As-  
semblies which should be made in the Realm of England for ever,  
That every Man shall come without all force and Armour, well, and  
peaceable to the Honour of Vs, and the peace of Vs and Our Realm. And  
now in our next Parliament at Westminster, after the said Treaties,  
the Prelates, Earls, Barons, and the Commonalty of Our Realm there  
Assembled, to take Advice of this businesse have said, That to Vs it  
belongeth, and Our part is through Our Royall Seigniorie straightly to  
defend force of Armour, and all other force against Our Peace at all times  
when it shall please Vs, and to punish them, which shall do contrary accor-  
ding to Our Laws and Vsages of Our Realm.*

*And herunto they are bound to ayde us, as their Sovereign Lord, at  
all Seasons, when need shall be. We command you, that you cause these  
things to be read afore you in the said Bench, and there to be Inrolled.*

Given at Westminster the thirtieth day of October.

**T**He occasion of this Declaration was for the restraint of Armed Men from coming to the Parliament, to disturb the Peace of it, and is very improperly alleaged for the maintenance of such Levies, as are now raised against the Parliament. The title of the Statute being thus, To all Parliaments, and Treaties, every man shall come without force and Arms, So that the Question is not, whether it belong to the King or no to restrain such force; But if the King shall refuse to discharge that Duty and Trust, Whether there is not a power in the two Houses, to provide for the safety of the Parliament, and Peace of the Kingdom, which is the end, for which the Ordinance concerning the *Militia* was made, and being agreeable to the scope and purpose of the Law, cannot in Reason be adjudged to be contrary to it; For although the Law do affirm it to be in the King, yet it doth not exclude those, in whom the Law hath placed a power for that purpose, As in the Courts of Justice, the Sheriffs, and other Officers and Ministers of those Courts. And as their power is derived from the King by His Patents, yet cannot it be restrained by His Majesties command, by His great Seal, or otherwise, much lesse can the Power of Parliament be concluded by His Majesties command, because the Authority thereof is of a higher, and more eminent nature, then any of those Courts.

It is acknowledged, That the King is the Fountain of Justice, and Protection, But the Acts of Justice and Protection, are not exercised in His own Person, nor depend upon His Pleasure, but by His Courts, and by His Ministers, who must do their Duty therein, though the King in His own Person should forbid them; And therefore, if Judgements should be given by them against the Kings Will and Personall command, yet are they the Kings Judgements.

The High Court of Parliament, is not only a Court of Judicature, enabled by the Laws, to adjudge, and determine the Rights,



**Rights, and Liberties of the Kingdom, against such Patents, and Grants of His Majestie, as are prejudiciall thereunto, although strengthened both by His Personall command, and by His Proclamation, under the great Seal. But it is likewise a Councell to provide for the necessities, prevent the imminent dangers, and preserve the publike Peace and safety of the Kingdom, and to declare the Kings pleasure in those things as are requisite thereunto; and what they do herein, hath the Stamp of Royall Authority, although His Majestie seduced by evill Councell, do in His Own Person, oppose, or interrupt the same. For the Kings supream Power, and Royall Pleasure, is exercised, and declared in this high Court of Law, and Councell, after a more eminent and obligatory manner, then it can be by any personall Act or Resolution of His Own.**

**Seeing therefore, The Lords and Commons which are His Majesties great and highest Councell, have ordained, That for the present and necessary defence of the Realm, the Trained-Bands, and Militia of this Kingdom should be ordered according to that Ordinance, And that the Town of Hull should be committed to the custody of Sir *John Horham*, to be preserved from the attempts of Papists and other malignant persons, who thereby might put the Kingdom into a combustion, which is so far from being a force against the Kings peace, that it is necessary for the keeping, and securing thereof, and for that end alone is intended; and all His Majesties loving Subjects, as well by that Law, as by other Laws, are bound to be obedient thereunto; and what they do therein, is (according to that Law) to be interpreted to be done in ayd of the King, in discharge of that Trust which he is tyed to perform; and it is so farre from being lyable to punishment, that if they should refuse to do it, or be perswaded by any Commission or Command of His Majesty to do the contrary, they might justly be punished for the same, according to the Laws and Usages of the Realm: for the King, by His Sovereignty,**

raignty, is not enabled to destroy His people, but to protect and defend them, and the High Court of Parliament, and all other His Majesties Officers, and Ministers, ought to be subservient to that Power and Authority, which the Law hath placed in His Majesty to that purpose, though He Himself in His Own Person should neglect the same.

Wherefore the Lords and Commons do declare the said Proclamation to be void in Law, and of none effect, For that by the Constitution and policy of this Kingdom, the King by His Proclamation, cannot declare the Law contrary to the Judgement and Resolution of any of the inferiour Courts of Justice, much lesse against the High Court of Parliament; for if it were admitted, That the King by His Proclamation may declare a Law, thereby His Proclamations will in effect become Laws, which would turn to the subverting of the Law of the Land, and the Rights, and Liberties of the Subjects.

And the Lords and Commons do require and command, all Constables, Petty-Constables, and all other His Majesties Officers, and Subjects whatsoever, to Muster, Levy, raise, March and Exercise, or to Summon or Warn any upon Warrant from the Lieutenants, Deputy-Lieutenants, Captains, or other Officers of the Trained-Bands, and all others according to the said Ordinance of both Houses; and shall not presume to Muster, Levy, raise, March, or Exercise, by virtue of any Commission, or other Authority whatsoever, as they will answer the contrary at their perills, and in their so doing, They do further declare, That they shall be Protected by the Power and Authority of both Houses of Parliament; And that whosoever shall oppose, question, or hinder them in the execution of the said Ordinance, shall be proceeded against as violaters of the Laws, and disturbers of the Peace of the Kingdom.

*FINIS.*